HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 929 of 2006

1. Sonu Gupta s/o Sri Atar Singh Gupta
2. Ramesh Kumar s/o Sri Atar Singh Gupta
3. Atar Singh Gupta s/o late Sri Surendra Singh Gupta
4. Smt. Mithlesh Devi w/o Sri Atar Singh Gupta
5. Smt. Saroj Gupta w/o Sri Jai Prakash Gupta
   All resident os Mohalla Mandanpuri Colony P.S. Mandi Saharanpur, District Saharanpur ..... Applicants

Versus

1. State of Uttaranchal
2. Satish Gupta s/o Sri Padam Singh r/o Shisham Jhari, Muni-ki-Reti Warde No. 4 P.S. Ramjhula, District Tehri Garhwal ..... Opp. Party

Dated: 22.11.06

Hon'ble Rajesh Tandon, J.

Heard Sri Lalit Belwal counsel for the applicant and learned A.G.A for the respondents.

By the present application under section 482 Cr.P.C. the applicants have challenged the criminal proceedings against the applicants in Case No. 135 of 2006, Satish Gupta vs. Sonu Gupta pending in the Court of Chief Judicial Magistrate, Tehri Garhwal.

According to the applicants, applicant no. 1 Sonu Gupta was married with Navita Bjhanji of the opposite party no. 2. Smt. Navita was not living with applicant Sonu and therefore Sonu Gupta has filed a suit for restitution of conjugal rights under section 9 of the Hindu Marriage Act. According to the applicants the family members of Navita remarried her. When the applicants came to know this fact he lodged a complaint

under section 494, 496 and 497 I.P.C. According to the applicants respondent no. 2 filed criminal case No. 135 of 2006, Satish Gupta vs. Sonu Gupta and others under section 504 and 506 I.P.C. to counter the complaint by application no. 1.

So far as the instant petition under section 482 Cr.P.C. is concerned no interference can be made under section 482 Cr.P.C. as both the parties will be at liberty to lead the evidence in view of the observations made by the Apex Court in the case Medchl Chemicals and Pharma (P) Ltd. vs. Biological E. Ltd. and others (2003) 3 SCC 269.

Since the trial has to take place for the offences under aforesaid sections, therefore, without expressing any opinion on the merits of the case, I direct the applicants to appear before the Magistrate concerned within 15 days of passing of this order and the court will permit them to file appearance bond to the satisfaction of the Magistrate concerned for their regular appearance in the case.

Subject to the observations made above, application under Section 482 Cr.P.C. is disposed of.

Dated: 22.11.2006 **Rajesh Tandon, J.**

*Dhyani